

REMARKS/ARGUMENTS

This amendment is filed in response to the Office Action dated July 20, 2009. In that Office Action, claims 40-42, 44-53, 107-116 and 121-124 were rejected.

Applicant thanks the Examiner for his time during the telephonic interview on November 23, 2009 to discuss certain claims herein in light of the prior art. Applicant has made various amendments consistent with draft claims discussed during that interview.

Applicant has cancelled various claims resulting in claims 1-39, 41, 43, and 51-130 no longer being present in the application. This is done to focus prosecution on claims 40, 42, and 44-50. Applicant submits that the rejections for the canceled claims are rendered moot, and requests that the rejections for the cancelled claims be withdrawn.

Applicant has amended claim 40, and submits that no new matter is added. Claim 40 has been amended to recite that the system is for provisioning a “cable television service” and recites that the ISPG is configured to provide cable television service options. With this amendment, Applicant submits that this amendment distinguishes the prior art as rejected in item #8, page 11 of the Office Action. Namely, McKeown solely focuses on provisioning cable modem capabilities, which is not analogous art, since claim 40 and its dependent claims are limited to cable television services.

Applicant has further amended claim 40 to recite that the “host file [is] used to identify one of a plurality of host protocol files used for generating a message for provisioning a host...wherein said message is transmitted to said host.” Applicant submits this limitation is not found in the prior art combination of Donlan in view of Borelli. Donlan discloses a system for resuming service to a suspended cable television subscriber, and discloses messaging occurring in the “back office” systems in a cable network, not any interaction with the user’s host.

Applicant has amended claim 40 to clarify that the provisioning message is transmitted to the host. The “STB request” (STB = set top box) message indicated in Donlan (Office Action, page 3, item 6) is not a message *sent to the STB*. Rather, a reading of paragraphs 64 and 65

indicate that the “update stb request” message is sent *within the back-office systems* of the service provider. Donlan discloses the customer service representative (“CSR”) is requesting updating the system for that STB. Thus, there is no message generated to the STB as claimed herein, but a message generated and transmitted within the systems of Donlan.

In addition, the claim has been amended to recite that the “host file [is] used to identify one of a plurality of host protocol files...” Donlan does not disclose this aspect, since it does not disclose “host protocol files.” As indicated in the specification, the host files include 1) a host profile file describing functionality of the host and 2) a host protocol file which defines protocol messages (e.g., syntax). These two files allow creating a “configuration message” that can configure the host. (See, e.g., par. 65 , and par. 119). The host protocol file can be analogized to a programming language reference, which can be used to create a specific command (or, in this case, configuration message). The host profile discloses what capabilities the host has, so that it informs which host protocols are applicable. Different versions of a host (e.g., set top box) could have different messaging protocols, hence there is a need to identify which host protocol file should be used to generate the configuration message. The host protocol file is used to generate the configuration message that is then sent to the host to provision it. For example, subscriber specific service parameters may be required and applied to a message syntax in the host protocol file to generate a host-specific configuration message. (See, e.g., par. 120) Since Donlan does not disclose sending messages to a host, there is no need for defining how configuration messages could be generated that are sent to the host. Thus, Donlan does not have any reason to disclose different host protocol files for generating different configuration messages for different host types.

In addition, Applicant notes that claim 40 recites “input data entered by the user comprising a user identifier and a host identifier.” Borelli is relied upon for disclosure of this limitation, but citations to Borelli (par. 52 and 38) do not disclose this information. Paragraph 52 states that the user may provide information necessary to become a registered user, such as “necessary billing and contact information.” (Par. 52). While this might include name, address, telephone number, etc., the billing and contact information would not teach or suggest a “host

identifier.” Further, paragraph 38 discloses use of a program that is installed on a computer that would provide information about the processor speed, network interface types, and other relevant data about the computer. This again, would not indicate the host identifier.

Further, the claim recites that the ISPG in turn generates a “second provisioning identifier, and the claim has been amended to recite that the “second provisioning message further includes a host manufacturer identifier and a host model identifier.” Borelli does not disclose determining this information.

Combination of Donlan with Borelli is Improper

Applicant submits the combination of prior art is improper, and the MPEP 2143.01 (V) states that the proposed combination cannot render the prior art unsatisfactory for its intended purpose. Namely:

“The court reversed the rejection holding the "suggested combination of references would require a substantial reconstruction and redesign of the elements shown in [the primary reference] as well as a change in the basic principle under which the [primary reference] construction was designed to operate." 270 F.2d at 813, 123 USPQ at 352.).”

The Examiner has cited Donlan as the primary reference. Donlan is titled “Method and Apparatus for Removing Client From An Interactive TV Network” and largely pertains to deactivating a subscriber, but does disclose resuming service for that subscriber. Specifically, the Examiner is citing to a section in Donlan (par. 65-66) where a subscriber in arrears of payment and has been ‘suspended’, but is now ‘re-activated.’ This is accomplished by the subscriber talking to a customer service agent, who then interacts with the various systems. In this case, the cable service provider presumably knows about the services provided to the subscriber. Hence the subscriber only needs to provide the appropriate billing and contact information to the operator. Applicant notes that the Examiner cites to Data Storage 228 as

providing “all customer account and service profiles required for service activation.” This refers to services the customer has, account information, etc.

Donlan is a system for servicing existing subscribers (“procedures for deleting, suspending, and/or reactivating an existing or former subscriber”, par. 49). Thus, in Donlan, the subscriber is known (Applicant considers “reactivating” a suspended subscriber is what is meant by reactivating a “former subscriber.”) Donlan is combined with Borelli, which is a system allowing a *potential* subscriber (e.g., a new subscriber) to interact with a broker for registering for a service provider and to obtain services as part of registration. See, e.g., Donlan, par. 37, 52.

On the other hand, Borelli is a system for qualifying potential subscribers. One could not substitute portions of Donlan with a system that performs a different function without reengineering the systems. For example, replacing the customer service (CSR) agent in Donlan with the ISP website in Borelli would allow a subscriber to “reactivate” their suspended services. The function of the CSR in Donlan is to verify or collect payment, and then re-activate service for a subscriber. Further, because Donlan already has all service information, there is no need to collect all the service provisioning information again, but to merely “activate” the suspended services (see, e.g., FIG. 7 of Donlan). Merely replacing the CSR with a web site would only allow a suspended customer to reactivate their own service.

If, however, “replacing the customer service representative with a website as taught by Borelli” is for the purpose of incorporating into Donlan the additional web site functions taught by Borelli, then the back office systems disclosed in Donlan would not support adding a new subscriber (recall the back office systems in Donlan only support resuming a current subscriber, and there is no disclosure in Donlan of how the back office system they are used to sign up a new subscriber as suggested in Borelli). For example, since Donlan actually does not disclose receiving a “host identifier” from a user, how would the systems in Donlan process a “host identifier” received from the web site in Borelli?

Thus, there Donlan and Borelli are directed to different types of capabilities, and mixing the “front end” Borelli with the “backend” of Donlan requires glossing over deficiencies in how the systems would operate together.

Dependent Claim 42 Is Distinguished

Claim 42 is alleged to be obvious when Donlan and Borelli is further combined with Tamura. Tamura discloses that when a user obtains a new set top box (STB) that the user plugs in the box, and automatic provisioning occurs (see, e.g., par. 25). Paragraph 27 explicitly states that the “smart card identifier... is sent *from* the STB *to* the service provider...” However, claim 42 pertains to the “second provisioning message” which claim 40 recites is generated by the ISPG to the ESS. Thus, the combination of Tamura with Donland and Borelli does not discloses claim 42 as alleged.

Dependent Claim 44 is Distinguished

Applicant submits that Donlan does not disclose the limitation “wherein the host file contains a configuration message associated with the host type, the configuration message further associated with a service identified by the service related input data.”

The Office Action points to paragraph 43 , which is a figure of a database schema – e.g., a structured relationship of data stored. There is no disclosure of a “configuration message” but only of types of data retained. The disclosure of data in a database pertaining to “device type” is not sufficient to disclose the other aspects of the limitation.

Applicant submits that dependent claims 45-50 are distinguished from the cited art based on the limitations found in claim 40.

Appl. No.: 10/712,832
Amdt. dated December 9, 2009
Reply to Office Action of July 20, 2009

CONCLUSION

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefor (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

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ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON December 9, 2009.